
STATUTORY INSTRUMENTS

1992 No. 1408 (S.136)

**COUNCIL TAX, SCOTLAND
WATER SUPPLY, SCOTLAND**

The Council Tax (Discounts) (Scotland) Order 1992

<i>Made</i>	- - - -	<i>12th June 1992</i>
<i>Laid before Parliament</i>		<i>24th June 1992</i>
<i>Coming into force</i>	- -	<i>1st April 1993</i>

The Secretary of State, in exercise of the powers conferred upon him by section 113(1) of, and paragraphs 1, 2, 4, 5 and 8 of Schedule 1 to, the Local Government Finance Act 1992((1)) and those paragraphs as read with paragraph 11 of Schedule 11 to that Act and with the Council Water Charge (Scotland) Regulations 1992((2)) made thereunder, and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Council Tax (Discounts) (Scotland) Order 1992 and shall come into force on 1st April 1993.

(2) This Order extends to Scotland only.

Interpretation

2. In this Order, except where the context otherwise requires—

“the Act” means the Local Government Finance Act 1992;

“central institution” has the same meaning as in section 135(1) of the Education (Scotland) Act 1980((3));

“designated institution” has the same meaning as in section 44(2) of the Further and Higher Education (Scotland) Act 1992((4));

(1) 1992 c. 14.
(2) S.I.1992/1203.
(3) 1980 c. 44.
(4) 1992 c. 37.

“District Health Authority” and “Regional Health Authority” have the same meanings as in section 8 of the National Health Service Act 1977((5));

“further education”, in relation to Scotland, has the same meaning as in section 1(5)(b) of the Education (Scotland) Act 1980((6)), in relation to England and Wales, has the same meaning as in section 41 of the Education Act 1944((7)) and, in relation to Northern Ireland, has the same meaning as in article 5(c) of the Education and Libraries (Northern Ireland) Order 1986((8));

“Health Board” has the same meaning as in section 2 of the National Health Service (Scotland) Act 1978((9));

“qualifying course of education” has the meaning assigned to it by Schedule 1 to this Order;

“relevant activities” with respect to a qualifying course of education means the receipt of tuition, the undertaking of supervised study or examination, and the taking part (as part of the curriculum of the course) in any supervised exercise, experiment, project or practical work;

“the relevant number of hours per week” in relation to such a course means the average number of hours per week a person undertaking it would normally require to spend, in the period during which the course subsists, on relevant activities (excluding for the purpose of calculating that average any part of that period which is a period of vacation);

“the relevant period” for a programme or course means the period commencing with the day on which a person begins that programme or course and ending with the day (“the last day”) on which he completes it, abandons it or is dismissed from it (which period includes any period of vacation between terms and before the last day);

and any reference to a paragraph in Schedule 1 to the Act includes a reference to that paragraph as read with paragraph 11 of Schedule 11 to the Act.

Persons in detention

3.—(1) Under sub-paragraph (6) of paragraph 1 of Schedule 1 to the Act, a person shall be disregarded for the purposes of discount on a particular day if—

- (a) on the day he is imprisoned, detained or in custody under the Army Act 1955((10)), the Air Force Act 1955((11)) or the Naval Discipline Act 1957((12)); and
- (b) the conditions prescribed in paragraph (2) below are fulfilled where they are applicable.

(2) The conditions are that, where a person is in custody under arrest under any of the Acts mentioned in paragraph (1) above—

- (a) he is not in custody under open arrest; and
- (b) the custody forms part of a continuous period exceeding 48 hours during which he is under arrest.

(5) 1977 c. 49; section 8 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 28, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 10, Part I and the National Health Service and Community Care Act 1990 (c. 19), section 1 and Schedule 10.

(6) Section 1(5)(b) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 3, paragraph 37(b) and by the Self-Governing Schools etc. (Scotland) Act 1989 (c. 39), Schedule 11.

(7) 1944 c. 31; section 41 is substituted with effect from 1st April 1993 by the Further and Higher Education Act 1992 (c. 13), section 11, and S.I. 1992/831.

(8) S.I. 1986/594 (N.I.3).

(9) 1978 c. 29; section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 7, paragraph 1 and by the National Health Service and Community Care Act 1990, section 28, Schedule 9, paragraph 19(1) and Schedule 10.

(10) 1955 c. 18.

(11) 1955 c. 19.

(12) 1957 c. 53.

(3) A person is to be treated as in custody under open arrest for the purposes of sub-paragraph (a) of paragraph (2) above if he is so treated for the purposes of Queen's Regulations for the Navy, Army or Air Force.

The severely mentally impaired

4.—(1) The condition prescribed for the purposes of paragraph 2(1)(c) of Schedule 1 to the Act is that the person in question is entitled to one or more of the qualifying benefits listed in paragraph (2) below.

(2) The qualifying benefits are—

- (a) an invalidity pension under section 33, 40 or 41 of the Social Security Contributions and Benefits Act 1992((13));
- (b) an attendance allowance under section 64 of that Act;
- (c) a severe disablement allowance under section 68 of that Act;
- (d) the care component of a disability living allowance under section 71 of that Act, payable at the highest rate under section 72(4)(a) or at the middle rate under section 72(4)(b) of that Act;
- (e) an increase in the rate of disablement pension under section 104 of that Act (increase where constant attendance needed);
- (f) a disability working allowance under section 129 of that Act for which the qualifying benefit is one falling within subsection (2)(a)(i) or (ii) of that section, or is a corresponding Northern Ireland benefit;
- (g) an unemployability supplement under Part I of Schedule 7 to that Act;
- (h) a constant attendance allowance under—
 - (i) article 14 of the Personal Injuries (Civilians) Scheme 1983((14)); or
 - (ii) article 14 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983((15)) (including that provision as applied, whether with or without modifications, by any other instrument);
- (i) an unemployability allowance under—
 - (i) article 18(1) of the Personal Injuries (Civilians) Scheme 1983((16)); or
 - (ii) article 18(1) of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983((17)) (including that provision as applied, whether with or without modifications, by any other instrument).

Apprentices

5.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “apprentice” means a person who, on a particular day, is—

- (a) employed for the purpose of learning a trade, business, profession, office, employment or vocation;
- (b) for that purpose undertaking a programme of training leading to a qualification accredited by the National Council for Vocational Qualifications or the Scottish Vocational Educational Council; and

(13) 1992 c. 4.

(14) S.I. 1983/686.

(15) S.I. 1983/883.

(16) Article 18 was relevantly amended by S.I. 1984/1289, 1985/1313 and 1992/702.

(17) Article 18 was relevantly amended by S.I. 1984/1154, 1985/1201 and 1992/710.

- (c) employed at a salary or in receipt of an allowance which is, or (if both) which are in total—
 - (i) substantially less than the salary he would be likely to receive if he had achieved the qualification in question; and
 - (ii) no more than £130 per week.

(2) A person is undertaking a programme for the purposes of paragraph (1) above on a particular day if the day falls within the relevant period for that programme.

Students

6.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “student” means a person who, on a particular day, is not a student nurse (in terms of article 7 of this Order) and is—

- (a) registered with the Central Bureau for Educational Visits and Exchanges as a foreign language assistant, provided that the day falls within the period of his appointment as such an assistant at a school or other educational institution in Great Britain;
- (b) aged under 20 and undertaking with a single educational establishment (otherwise than in consequence of an office or employment held by him)—
 - (i) a qualifying course of education in respect of which the relevant number of hours per week exceeds 12; or
 - (ii) two or more qualifying courses of education in respect of which the aggregate of the relevant number of hours per week for all those courses exceeds 12; or
- (c) undertaking a course of education—
 - (i) which is specified in Schedule 2 to this Order;
 - (ii) which is provided by an institution specified in Schedule 3 to this Order;
 - (iii) which he is required by the institution to attend for a period of at least 24 weeks within each academic year of the institution required to complete the course; and
 - (iv) in respect of which, in the opinion of the institution, a person would ordinarily require to undertake periods of study or tuition (including any periods of industrial, professional or commercial experience associated with the course which he requires to undertake to complete the course) which amount, in the aggregate, to an average of at least 21 hours a week during the period mentioned in head (iii) above.

(2) A person is to be regarded for the purposes of sub-paragraph (b) of paragraph (1) above as undertaking a qualifying course of education on a particular day if—

- (a) the day falls within the relevant period for that course; and
- (b) he is not on that day an apprentice or a youth training trainee (in terms of article 5 or 8 of this Order).

(3) A person is to be regarded for the purposes of sub-paragraph (c) of paragraph (1) above as undertaking a course of education on a particular day if—

- (a) on the day he is enrolled with the institution providing the course for the purpose of attending that course; and
- (b) the day falls within the relevant period for that course.

Student nurses

7.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “student nurse” means a person who, on a particular day—

- (a) is undertaking a course which would (if successfully completed) lead to registration on any of Parts 1 to 6, 8 or 11 of the Register maintained under section 10 of the Nurses, Midwives and Health Visitors Act 1979((18)), as a first inclusion on that Register; or
 - (b) is—
 - (i) undertaking a course which would (if successfully completed) lead to registration on Part 10 of that Register as a first inclusion on that Register; and
 - (ii) employed by a Health Board or by a Regional or a District Health Authority.
- (2) A person is undertaking a course for the purposes of paragraph (1) above on a particular day if the day falls within the relevant period for that course.

Youth training trainees

8.—(1) For the purposes of paragraph 4 of Schedule 1 to the Act, “youth training trainee” means a person who, on a particular day, is—

- (a) under the age of 25; and
 - (b) undertaking a course of training in conformity with an individual training plan pursuant to arrangements which—
 - (i) are made under section 2 of the Employment and Training Act 1973((19)) or section 2 of the Enterprise and New Towns (Scotland) Act 1990((20)); and
 - (ii) constitute an approved training scheme for the purposes of section 28 of the Social Security Contributions and Benefits Act 1992.
- (2) A person is undertaking a course for the purposes of paragraph (1) above on a particular day if the day falls within the relevant period for that course.

Certificates

9. For the purposes of paragraph 5 of Schedule 1 to the Act—

- (a) the information to be contained in a certificate under sub-paragraph (2) of that paragraph is—
 - (i) the name and address of the institution by whom the certificate is supplied;
 - (ii) the full name of the person to whom it is supplied;
 - (iii) his date of birth (where this is known to the institution and where the person to whom the certificate is supplied is, at the time of supply, a student by virtue of sub-paragraph (b) of article 6(1) above);
 - (iv) his home address and, where different, his address during the term time of the institution (where these are known to the institution);
 - (v) a statement certifying that he is following or has followed a course of education at the institution as a student or, as the case may be, a student nurse; and
 - (vi) the date when the person became a student or a student nurse at the institution and the date when his course ended or is expected to end; and
- (b) any educational establishment situated in Scotland which is specified in Schedule 3 to this Order is hereby prescribed as an institution.

(18) 1979 c. 36.

(19) 1973 c. 50; section 2 was substituted by the Employment Act 1988 (c. 19), section 25 and amended by the Employment Act 1989 (c. 38), Schedule 7, Part I.

(20) 1990 c. 35.

Patients in homes

10.—(1) The definition of “hostel” set out in paragraph (2) below is hereby prescribed for the purposes of paragraph 8 of Schedule 1 to the Act.

- (2) A hostel is an establishment in which residential accommodation is provided and which is—
- (a) managed by a housing association registered for the time being in a register maintained under section 3 of the Housing Associations Act 1985((21));
 - (b) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a Government department or agency or a local authority; or
 - (c) managed by a voluntary organisation;

where the sole or main function of the establishment is to provide personal care or support to persons who have their sole or main residence in the establishment.

- (3) In paragraph (2) above—

“personal care” includes the provision of appropriate help with physical and social needs;

“support” means counselling or other help provided as part of a planned programme of care; and

“voluntary organisation” has the meaning given by section 94(1) of the Social Work (Scotland) Act 1968((22)).

St. Andrew’s House,
Edinburgh
12th June 1992

Allan Stewart
Parliamentary Under Secretary of State, Scottish
Office

(21) 1985 c. 69; section 3 was amended by the Housing Act 1988 (c. 50), Schedule 6, paragraph 3.

(22) 1968 c. 49.

SCHEDULE 1

Article 2

QUALIFYING COURSES OF EDUCATION

1. A qualifying course of education is a course of education—
 - (a) which subsists for more than 3 calendar months;
 - (b) which is not an excepted course;
 - (c) with respect to which tuition is principally received otherwise than through correspondence; and
 - (d) with respect to which the relevant activities are (insofar as they are normally carried out under the course at particular times) normally so carried out principally between 8.00am and 5.30pm.

- 2.—(1) In paragraph 1(b) above, an excepted course means, subject to sub-paragraphs (2) and (3) below—
 - (a) a course for the further training of teachers or youth and community workers;
 - (b) a post-graduate course (including a higher degree course);
 - (c) a first degree course;
 - (d) a course for the Diploma of Higher Education;
 - (e) a course for—
 - (i) the Higher National Diploma or Higher National Certificate of the Scottish Vocational Education Council;
 - (ii) a Scottish Vocational Qualification Level IV; or
 - (iii) the Diploma in Management Studies;
 - (f) a course for a diploma, certificate or qualification equivalent to those specified in head (e) above;
 - (g) a course for the Certificate in Education;
 - (h) a course in preparation for a professional examination at higher level; and
 - (i) a course providing education at a higher level (whether or not in preparation for an examination).
 - (2) For the purposes of sub-paragraph (1)(h) above, a professional examination is at higher level if its standard is higher than—
 - (a) the standard of examinations at the higher grade of the Scottish Certificate of Education or the Advanced Level for the General Certificate of Education; or
 - (b) the assessment for the National Certificate of the Scottish Vocational Education Council or Scottish Vocational Qualification Level III.
 - (3) For the purposes of sub-paragraph (1)(i) above, a course is to be regarded as providing education at a higher level if its standard is higher than the standard of courses providing education in preparation for any of the examinations or the assessments mentioned in sub-paragraph (2) above.

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SCHEDULE 2

Article 6(1)(c)(i)

SPECIFIED COURSES

Courses at first degree and diploma level

1. A course at undergraduate level leading to—
 - (a) a degree, certificate, diploma or licentiateship of a university or theological college; or
 - (b) a degree, certificate or diploma granted by a designated institution, a central institution or any other institution for the provision of any form of further education.

Courses in further education

2. A course in further education leading to an award of the Scottish Certificate of Education, the General Certificate of Education, the General Certificate of Secondary Education or the International Baccalaureate.
3. A course in further education leading to the National Certificate, the Higher National Certificate or Higher National Diploma of the Scottish Vocational Education Council, or a Scottish Vocational Qualification, or any other course in further education leading to a comparable award.
4. A course in further education required by an educational establishment to be undertaken prior to any other course mentioned in this Schedule being undertaken.

Teacher training and other courses

5. A course at undergraduate or postgraduate level for the initial training of teachers, social workers or youth and community workers.

Vocational courses at postgraduate level

6. A course at postgraduate level leading to a certificate or diploma in professional studies or to any other comparable award.

Courses at higher degree level

7. A course leading to the award of the degree of Doctor of Philosophy or a Master's degree or to any other comparable award.

SCHEDULE 3

Articles 6(1)(c)(ii) and 9(b)

INSTITUTIONS

1. A university in the United Kingdom and any college, school, hall or other institution of such a university.
2. A central institution.
3. A designated institution.
4. A college of nursing and midwifery or a college of health, established by a Health Board or by a Regional or District Health authority.

5. Any other institution in Scotland for the provision of any form of further education (other than a Ministry of Defence training establishment for the armed forces).
6. An establishment of further education in England or Wales maintained or assisted by a local education authority within the meaning of the Education Act 1944((23)) or in receipt of grants made under regulations made under section 100 of that Act((24)).
7. Any other institution in England or Wales which is—
 - (a) within the further education sector (in terms of subsection (3) of section 91 of the Further and Higher Education Act 1992((25)); or
 - (b) within the higher education sector (in terms of subsection (5) of that section).
8. A college of education within the meaning of article 2(2) of the Education and Libraries (Northern Ireland) Order 1986.
9. An institution of further education in Northern Ireland provided by an Education and Library Board constituted in accordance with Schedule 1 to that Order.
10. A theological college.
11. An institution of a Research Council established by Royal Charter under section 1 of the Science and Technology Act 1965((26)).

EXPLANATORY NOTE

(This note is not part of the Order)

Under Part II of, and Schedule 11 to, the Local Government Act 1992 “the Act”), the council tax and the council water charge become payable in Scotland with effect from 1st April 1993. The amounts payable may be reduced where a person resident in a dwelling falls to be disregarded for the purposes of discount. Schedule 1 to the Act provides for classes of persons to qualify for the purposes of discount. This Order makes further provisions in relation to certain of those classes.

Article 3 provides for a person to qualify for discount on a particular day if he is in military detention and certain conditions are fulfilled.

Article 4 provides that, for a person to qualify for discount within the class of the severely mentally impaired, he must be entitled to one of the benefits listed in the article.

Articles 5 to 8 provide appropriate definitions of persons who will qualify for discount by virtue of being “apprentices”, “students”, “student nurses” or “youth training trainees”.

Article 9 specifies the information to be contained in certificates supplied to students and student nurses and prescribes the educational establishments which are to be responsible for providing such certificates.

(23) See section 114 of this Act, as relevantly amended by the Education Reform Act 1988 (c. 40), section 234 and by the Further and Higher Education Act 1992 (c. 13), Schedule 8, paragraph 13(4).

(24) Section 100 was amended by S.I. 1964/490, article 3(2)(a), the Local Government Act 1958 (c. 55), Schedule 8, paragraphs 16(2) and 35 and Schedule 9, Part II, the Education Act 1962 (c. 12), Schedule 2, the Education Act 1973 (c. 16), Schedule 2, Part II, the Education Act 1980 (c. 20), Schedule 7 and the Education Reform Act 1988, section 213(3).

(25) 1992 c. 13.

(26) 1965 c. 4; section 1 was amended by the Nature Conservancy Council Act 1973 (c. 54), Schedule 4.

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Article 10 provides a definition of “hostel” for the purposes of paragraph 8 of Schedule 1 to the Act (person with sole or main residence in a hostel in Scotland to qualify for discount).